IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2204 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 03/12/2004 in WP NO : 22314 OF 2004 on the file of the High Court.)

Between:

J. Kondameeda Rayudu s/o Nadipi Papanna
Temporary Dealer Kakkalapalli (V), Anantapur

..... APPELLANT

AND

1 J. Pennappa S/o Chinna Obulappa
R/o Kakkalapalli Village, Anantapur District
2 The Joint Collector, Anantapur District
3 The Revenue Divisional Officer, Anantapur
4 The Mandal Revenue Officer, Anantapur Mandal, Anantapur District

.....RESPONDENT(S)

Counsel for the Appellant: M/SC.KODANDA RAM

Counsel for the Respondent No.1: Mr. O. Manohar Reddy

Counsel for the Respondent Nos.2,3 and 4: GP FOR CIVIL SUPPLIES

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

The order passed by the Revenue Divisional Officer, Anantapur calling upon the 1st respondent herein to explain as to why fair price shop authorization held by him be not cancelled on two charges mentioned in the notice within seven days and in the meanwhile asking the Mandal Revenue Officer, Anantapur to make alternative arrangements to facilitate the cardholders. The said suspension order was challenged by the 1st respondent before the Collector, Anantapur, in appeal. The appellate authority, by order dated 20.11.2004, dismissed the application for stay stating that on a perusal of grounds of appeal and the contents of the order of Revenue Divisional Officer, Anantapur, no case for grant of stay has been made out. This order was challenged by the 1st respondent in Writ Petition No. 22314 of 2004. Learned single judge, by the order impugned in this appeal, allowed the writ petition staying the order of suspension pending disposal of the appeal of the 1st respondent. The learned single judge proceeded to allow the writ petition on the ground that whenever an application is made for interim relief, the same needs to be considered objectively, and a reasoned order is required to be passed either rejecting or granting the relief and since no reason had been assigned, the order passed by the Collector was bad in law. Learned single judge also observed that there was no accusation against the writ petitioner that he had diverted the stock to the black market and in that view of the matter, the order of suspension of authorization was kept in abeyance during the pendency of the appeal.

Appellant, after getting himself impleaded as party, has filed this appeal questioning the order allowing writ petition.

We have heard the learned counsel for the parties.

Learned counsel for the writ petitioner-respondent No.1 has argued that suspension of authorization pending enquiry was ordered without application of mind and in a mechanical manner, and the Collector ought to have, in appeal, assigned valid reasons for not granting stay and since no reasons were assigned by the Collector while rejecting the application of stay, learned single judge was justified in granting stay.

The order passed by the Revenue divisional Officer says that as per the report of the Mandal Revenue Officer, the writ petitioner had stored Kerosene, which was meant for being distributed to the cardholders at his dwelling house, other than the authorized premises. Therefore, there was contravention of condition No.6 of Andhra Pradesh Public Distribution System (Control Order), 2001.

Second charge is that the writ petitioner had not distributed Kerosene Oil to cardholders in the month of August, 2004, thereby, contravened the provisions of the Distribution Control Order and also the Conditions of Authorisation. On these two charges, the writ petitioner was called upon to submit his reply. This order was served upon the petitioner on 10.9.2004 and in the meanwhile, on 18.10.2004, appellant was appointed as the fair price shop dealer, purely on temporary basis to facilitate cardholders. On 20.11.2004, the Collector, Anantapur while dismissing the application for stay observed that a perusal of the grounds of appeal and also the contents of the order of the Revenue Divisional Officer, Anantapur, the request for grant of stay is not granted as there is no considerable ground. This ground assigned by the Collector, in our view, was a valid ground for not granting stay. Charges levelled against the writ petitioner are serious enough and at the stage of granting stay on an interim application, the Collector was not expected to pass a detailed order. But, in case, the Collector was of the view that there was some case made out that in case the order of Revenue Divisional Officer had to be put under suspension, then he is expected to assign some valid reasons, but not while rejecting stay order.

Moreover, learned single judge had not opined that charges are not serious. Charges are serious enough. Distribution Control Order does not say that only when there is charge of black marketing that such suspension can be granted, but not in other cases. The natural corollary of non-distribution itself proves satisfactorily and it must be presumed that Kerosene Oil is being diverted for some other oblique purposes.

The order of suspension pending enquiry cannot be interfered with in a mechanical manner and that too while exercising writ jurisdiction. At the most, learned single judge could have set aside the order and sent back the matter to the appellate authority to pass fresh orders after assigning reasons, which was not done. We are, however, of the view that there cannot be stay of an order of suspension pending

consideration of appeal. Thus the order of the learned single judge is bad in law.

The appeal is allowed. The impugned order is set aside. The writ petition of the 1st respondent is dismissed. No costs.

_____ DEVINDER GUPTA, CJ

Date: 20th January, 2005

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M. NARAYANA REDDY,J

pnb

To

1 The Joint Collector, Anantapur District
2 The Revenue Divisional Officer, Anantapur
3 The Mandal Revenue Officer, Anantapur Mandal, Anantapur District

4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court,

Hyderabad.

5 Two C.D. copies